

RECEIPT # 75079  
AMOUNT \$ 350.00  
SUMMONS ISSUED Y  
LOCAL RULE 4.1 -  
WAIVER FORM -  
MCF ISSUED -  
BY DPTY. CLK. O. Harms  
DATE 9/14/2006

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

FILED  
IN CLERKS OFFICE

1006 SEP 14 P 2:21

C.A. NO.

**06 CA 11656 MEL**

YVETTE DOWNEY, Individually and as  
Mother and Next of Kin to ASHLEY  
CELESTER, a Minor, and  
ANTHONY DOWNEY,  
Plaintiffs

MAGISTRATE JUDGE *Alexander*

VS.

**COMPLAINT AND  
JURY DEMAND**

BOB'S DISCOUNT FURNITURE, INC.,  
Defendant

NOW COME the Plaintiffs, Yvette Downey, Anthony Downey and Ashley Celester, Minor Child to Plaintiff, Yvette Downey, and hereby state and allege as follows:

**JURISDICTION AND PARTIES**

1. The Plaintiff, Yvette Downey, is a resident of the Commonwealth of Massachusetts, with a last and usual place of residence at 232 Canton Street, Randolph, Norfolk County, Massachusetts.
2. The Plaintiff, Anthony Downey, is a resident of the Commonwealth of Massachusetts, with a last and usual place of residence at 232 Canton Street, Randolph, Norfolk County, Massachusetts.
3. The Plaintiff, Ashley Celester, Minor Child and Next of Kin to Plaintiff, Yvette Downey, is a resident of the Commonwealth of Massachusetts, with a last and usual place of residence at 232 Canton Street, Randolph, Norfolk County, Massachusetts.
4. That the Defendant, Bob's Discount Furniture, Inc., is a corporation duly licensed to sell furniture in the Commonwealth of Massachusetts, with a principal place of business located at 428 Tolland Turnpike, Manchester, Connecticut.

5. That the jurisdiction of this Court is based on diversity of the parties. The amount in controversy is in excess of Five Hundred Thousand (\$500,000.00) Dollars.

### **COUNT I**

#### **(Yvette Downey, Individually and Anthony Downey)**

6. That the Plaintiffs herein allege and reallege Paragraphs One through Five as if fully stated herein.
7. That on or about December 26, 2004, the Plaintiffs, Anthony Downey and Yvette Downey, purchased a children's bedroom set from the Defendant, Bob's Discount Furniture, Inc., which was delivered to their home on or about December 29, 2004.
8. That the Plaintiffs, Yvette Downey and Anthony Downey, paid \$697.99 for the bedroom set.
9. That at the time of Plaintiffs' purchase of the bedroom set, there were no visible signs of any contamination of the furniture.
10. That unbeknownst to the Plaintiffs, said bedroom set was contaminated with Bedbugs, which had not hatched or grown to a visible size.
11. That on or about July 24, 2005, Plaintiffs noticed that she and her family were starting to get what appeared to be "bite marks" on their bodies. However, they could not figure a causal relationship between the time the bedroom set was purchased and when the "biting" began.
12. On or about July 24, 2005, at approximately 2:30-3:00 a.m., the Plaintiffs contacted "Alliance Pest Control", as the Bedbugs had now become visible.
13. That on or about July 25, 2005, at approximately 12:00 p.m., an employee from Alliance Pest Control arrived at their home and began the decontamination treatment. He then contacted Defendant, Bob's Discount Furniture, advising how bad the infestation was, and that the home needed "immediate treatment."

14. That on or about July 29, 2005, five (5) days after Plaintiffs' notified the Defendant of the Bedbugs, the Defendant, Bob's Discount Furniture, Inc., came to Plaintiffs' home and removed the bedroom set.
15. That on July 29, 2005, the bedroom set was taken to the Defendant's laboratory for testing, and confirmation was made that the bedroom set was, in fact, infested with Bedbugs.
16. That by this date, the Plaintiffs' entire home was infested with Bedbugs and therefore, all of their furniture, household furnishings, bedroom mattresses, carpeting, clothing and any other "materials" had to be removed and destroyed.
17. That on or about August 2, 2005, an employee from the Corporate Office, contacted the Plaintiffs, advising that the bedroom set tested positive for Bedbugs, offered them \$800.00, which Plaintiffs refused due to the massive "Inventory" of the contamination of all furnishings in her home.
18. That on or about August 4, 2005, the Defendant, Bob's Discount Furniture, sent their own exterminator, "Waltham Services, Inc., Pest and Termite Control", to Plaintiffs' home.
19. That upon Waltham Services' inspection of the Plaintiffs' home, they found eggs and fully grown Bedbugs in each and every area of her home including, but not limited to, behind wall hangings, in and around all of their furniture, clothing and other household items.
20. That at that time, Waltham Services sprayed the house down, and then came back a second time to spray again as the Bedbugs, which had not yet hatched from the first extermination, had hatched since that time.
21. That the Plaintiffs, Yvette Brown and Anthony Brown, suffered severe bite marks, as well as scarring from these bites. The Plaintiffs further suffered extreme physical, mental, emotional pain and anguish, as well as significant financial loss as a direct and proximate result of this incident.

WHEREFORE, Plaintiffs, Yvette Downey and Anthony Downey, respectfully request the following:

1. Judgment against the Defendant, Bob's Discount Furniture, Inc.;
2. Such other relief that this Court deems fair and just;
3. Trial by jury.

**COUNT II**

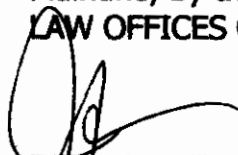

**(Yvette Downey, as Mother and Next of Kin to Ashley Celester)**

22. That the Plaintiffs herein allege and reallege Paragraphs One through Twenty-One as if fully stated herein.
23. That on or about July 28, 2005, the Plaintiff, Yvette Downey, took her daughter, Ashley Celester, to her pediatrician due to the bite marks and rash appearing on her body.
24. That at that time, Plaintiff, Yvette Downey, was advised by the pediatrician that the bites were what appeared to be Bedbug bites, and placed Ashley Celester on antibiotics and Hydrocortizone cream in an attempt to relieve the rash and persistent itching.
25. That the Minor Plaintiff, Ashley Celester, suffered severe bite marks, as well as scarring from these bites. The Minor Plaintiff further suffered extreme physical, mental, emotional pain and anguish as a direct and proximate result of this incident.

WHEREFORE, Plaintiff, Yvette Downey, as Mother and Next of Kin to Ashley Celester, respectfully request the following:

1. Judgment against the Defendant, Bob's Discount Furniture, Inc.;
2. Such other relief that this Court deems fair and just;
3. Trial by jury.

Plaintiffs, By their Attorneys,  
LAW OFFICES OF JOSEPH A. KUCHINSKI, JR.

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